

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-070905
	:	TRIAL NO. B-0102447
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
CHARLES BLEVINS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant, Charles Blevins, presents on appeal a single assignment of error challenging the Hamilton County Common Pleas Court's judgment denying his application for deoxyribonucleic-acid, or DNA, testing of evidence admitted at his trial. We affirm the court's judgment.

In 2002, Blevins was convicted of murder in connection with the stabbing death of Robert Lamar White. He unsuccessfully challenged his conviction in his direct appeal and in a postconviction petition.² He then filed with the common pleas court an application for DNA testing of untested blood samples collected from the crime scene. The court rejected the application, and this appeal followed.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² See *State v. Blevins*, 1st Dist. No. Co20068, 2002-Ohio-7335, discretionary appeal not allowed, 98 Ohio St.3d 1567, 2003-Ohio-2242, 787 N.E.2d 1231; *State v. Blevins* (June 30, 2004), 1st Dist. No. C-030576.

The decision to accept or reject an application for DNA testing is committed to the sound discretion of the common pleas court. But the court must reject the application if a DNA-test “exclusion result” would not be “outcome determinative.”³ An “exclusion result” is a DNA-test result “that scientifically precludes or forecloses the * * * inmate as a contributor of biological material recovered from the crime scene or victim.” An exclusion result is “outcome determinative” if, “had the result[] been [admitted] at the [inmate’s] trial * * *, no reasonable factfinder would have found the inmate guilty of [the] offense.”⁴

The common pleas court rejected Blevins’s application upon its conclusion that DNA-testing results excluding Blevins and his victim as the sources of the untested blood would not be outcome-determinative. We hold that the court, in rejecting the application, did not abuse its discretion.

At Blevins’s trial, the state presented the results of DNA analysis of much, but not all, of the blood evidence collected from White’s apartment. White and Blevins were the only sources of the tested blood. The knife that killed White bore both White’s and Blevins’s blood, and Blevins had bled both inside and outside the apartment. The state also presented evidence that Blevins had sustained cuts only to the palm of his dominant hand. The evidence further showed that, before the murder, White and Blevins had argued over money, and White had possessed a “wad” of money, and that, after the murder, Blevins had possessed a bloody “wad” of money. And the evidence showed that Blevins had immediately fled from the scene and then the jurisdiction, and that while in flight, Blevins had falsely claimed that he had been shot.

³ See R.C. 2953.74(A), (B), and (C).

⁴ R.C. 2953.71(G) and (L).

The state's evidence thus placed Blevins in White's apartment during White's murder. The defense countered by pointing to fingerprints and shoeprints left at the scene that the state could not match to either Blevins or White and offered the theory that Blevins, like White, had been the victim of third-party assailants.

A DNA-test result excluding Blevins and White as the sources of the untested blood would, as Blevins asserts, bolster the evidence, provided by the unmatched fingerprints and shoeprints, that others had been present in White's apartment when, or shortly after, he was murdered. But it would not wholly negate the other evidence, which tended to show that Blevins had handled the knife that had killed White, that he had fabricated a gunshot wound to explain his appearance and demeanor after the murder, and that he had fled with White's money.

Thus, the common pleas court's conclusion that an exclusion result would not be outcome-determinative cannot be said to have been the product of an unsound reasoning process.⁵ Accordingly, we overrule the assignment of error and affirm the judgment of the court below.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., PAINTER and HENDON, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 26, 2008

per order of the Court _____.
Presiding Judge

⁵ See *State v. Hill* (1967), 12 Ohio St.2d 88, 232 N.E.2d 394, paragraph two of the syllabus; *AAAA Enterprises, Inc. v. River Place Community Urban Redevelopment Corp.* (1990), 50 Ohio St.3d 157, 161, 553 N.E.2d 597, 601; see, also, *Eckert v. Jacobs* (Nov. 25, 1992), 1st Dist. No. C-910445.